

# **FY 2003 State Criminal Alien Assistance Program Guidelines**

**Bureau of Justice Assistance, U.S. Department of Justice**

**Issued April 2003**

## **FY 2003 Reporting Period**

The FY 2003 SCAAP incarceration reporting period runs from 12:00 a.m. (midnight), July 1, 2001 through 11:59 p.m., June 30, 2002. Eligibility and payment decisions are based exclusively on reported inmate days during this period.

## **Legislative Authority**

The State Criminal Alien Assistance Program (SCAAP) is governed by the Immigration and Nationality Act, 8 U.S.C. 1252, Section 242 as Amended and Title II, Subtitle C, Section 20301, Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322. In general terms, if a chief executive officer of a State or a political subdivision exercises authority over the incarceration of undocumented criminal aliens and submits a written request to the U.S. Attorney General, the Attorney General may provide compensation to that jurisdiction for those incarceration costs. SCAAP is subject to the terms and conditions of yearly congressional appropriations.

## **Program Scope**

SCAAP is administered by the Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP), United States Department of Justice (DOJ), in conjunction with the Immigration and Naturalization Service (INS), Department of Homeland Security. SCAAP provides Federal payments to States and localities that have incurred correctional officer salary costs for incarcerating undocumented criminal aliens that have at least one felony or two misdemeanor convictions for violations of State or local law and incarcerated for at least four consecutive days during the reporting period.

The FY 2003 SCAAP application and payment process continues to be managed through the innovative Web-based, electronic system that was premiered in FY 2000. Applicants apply, transmit inmate data, and request payments via this Internet-based system. The SCAAP Catalog of Federal Domestic Assistance (CFDA) number is 16.606.

## **Changes from Prior Fiscal Years**

The FY 2003 application period will be extended to eight weeks from the normal five weeks. This will allow jurisdictions additional time to complete and submit their applications. Payments are anticipated by late July or early August.

For many years, the SCAAP incarceration threshold was a minimum of 72 consecutive hours. This essentially established a four day benchmark that was indexed against minimum hours, as opposed to days or dates - and resulted in some inmates being eligible and others being ineligible

based upon the actual time of day of their incarceration or release. To simplify the process, the FY 2003 threshold will be a minimum of four consecutive days, regardless of the time of day the incarceration began or ended.

The statutory cornerstone of SCAAP inmate eligibility is the conviction of an undocumented criminal alien. To ensure applicant jurisdictions understand all of the variations associated with this standard, a section entitled **Qualifying Criminal Charges and Convictions** has been added to these Guidelines.

The FY 2003 SCAAP appropriation is \$250 million but the overall payment calculation process will remain unchanged. This process results in the development of a percentage factor that is uniformly applied, in conjunction with each jurisdiction's average cost of incarcerating illegal inmates, and the number of eligible inmates as established by INS.

Applicants are no longer required to indicate the type or number of criminal offenses. However, jurisdictions' internal vetting process must be monitored to ensure consistent identification of inmates that meet all SCAAP program criteria.

Applicants must use standard INS country codes for the country of birth information provided in the uploaded inmate records. No custom or abbreviated country codes will be accepted, regardless of whether the jurisdiction submits a country code data dictionary. Inmate records that do not contain the required country code format will be considered incomplete and will not be eligible for funding.

### **Undocumented Criminal Aliens**

Undocumented criminal aliens are generally persons who entered the United States illegally, are subject to deportation proceedings, or were granted non-immigrant status that has since expired. Technical eligibility questions about immigration matters should be referred to your local INS officials. To be potentially eligible, an undocumented criminal alien must be convicted of at least one felony or two misdemeanors for violations of state or local law, and incarcerated in a state or local correctional facility (including contract facilities) for at least four consecutive days during the applicable reporting period.

### **Qualifying Criminal Charges and Convictions**

If a person in state or local custody is considered an undocumented (illegal) alien, convicted of at least one felony or two misdemeanors for violations of state or local law, and incarcerated for at least four consecutive days during the reporting period, applicant jurisdictions may count all inmate days attributed to this person during the reporting period, including:

- Pretrial detention time served during the reporting period for a conviction of one felony or two misdemeanors.
- Pretrial detention time served during the reporting period on subsequent charges for

persons with prior qualifying convictions, regardless of the type or number of new criminal charges.

- Post-conviction, sentenced time served during the reporting period on a conviction of one felony or two misdemeanors.
- Post-conviction, sentenced time served during the reporting period on subsequent convictions for persons with prior qualifying convictions, regardless of the type or number of new convictions.

### **Minimum Period of Incarceration**

Eligible undocumented criminal aliens that were incarcerated for at least four consecutive days between July 1, 2001 and June 30, 2002 may be included in this year's application. The 72-hour threshold no longer applies.

#### ***Two examples of the four consecutive days threshold:***

1. An inmate enters just before midnight on Sunday, May 5th and is released at 6:00 a.m. on Wednesday, May 8th. This inmate was only in custody for approximately 54 hours but is now eligible because he was in custody over the minimum period of four consecutive days, regardless of the total hours of incarceration.
2. An inmate's detention began at 12:00 noon Monday, June 24th and ended with his release at 8:00 a.m. Thursday, June 27th. Using the previous 72 hour minimum rule, this inmate would not be eligible because he only was in custody for 68 hours. Under the new four consecutive day rule, he is eligible because his custody began Monday and ended Thursday (four consecutive days), regardless of the time of day the incarceration began or ended.

***A cautionary note: The on-line GMS application system will reject any inmate record that does not reflect a minimum of four consecutive days of incarceration or detention.***

### **Required Inmate Data Format**

The most important and significant portion of the on-line application is the detailed inmate file information that reflects the jurisdiction's good faith effort to identify and list undocumented criminal aliens in their correctional facilities. The application cannot be properly vetted or approved without having inmate records in the proper format and order. Required inmate data includes the INS A-Number, if known; last, middle and first names; date of birth; unique inmate number assigned by the applicant jurisdiction; foreign country of birth; date taken into custody; date released from custody (or the last day of the reporting period if the inmate is still in custody at the end of the reporting period); and FBI number, if known.

Unique, jurisdiction-specific country code data dictionaries are no longer accepted and inmate

records that are not in the required format will not be considered for funding. Any record missing a valid country code is invalid. BJA recognizes that the official names of countries are subject to change. If the country provided by the inmate is not on the list, the applicant should select one with the closest political boundaries. Example:

**Inmate Country of Birth: Serbia    GMS Drop-down List: Bosnia-Herzegovina**

For a detailed discussion of the proper form and substance of this inmate upload file, please access: [http://www.ojp.usdoj.gov/BJA/html/scaap/inmate\\_information.html](http://www.ojp.usdoj.gov/BJA/html/scaap/inmate_information.html)

For the latest INS country codes, please access:  
[http://www.ojp.usdoj.gov/BJA/html/scaap/country\\_codes.html](http://www.ojp.usdoj.gov/BJA/html/scaap/country_codes.html)

### **On-line Inmate Data Reporting Process**

BJA has implemented improved inmate data validation and editing functionality for FY 2003. Applicants will receive an inmate data error report at the completion of the inmate file upload if there are problems. Accounting for these additional checks, the estimated time required for file uploads is as follows (examples only): 300 inmate records - one minute; 7,800 inmate records - 2 minutes; 54,600 inmate records - 15 minutes.

During the file upload process, a red flashing bar will appear at the bottom of an applicant's screen. This bar will continue to flash until the inmate file upload is complete. Upon completion of the inmate file upload, the SCAAP GMS will provide the applicant with a file upload status report. This report will list the number of inmate records in the upload and the number of inmate records that are complete. In addition, the report will provide a detailed list of inmate records (by file number) that are incomplete or have data format errors and the nature of the error. Applicants should print this file upload status report for their records.

Applicants have two alternative methods for submitting the inmate data:

**Direct File Upload:** The direct file upload function allows applicants to submit their inmate database records in a single ASCII formatted file directly into GMS. File uploads must contain the mandatory data fields in the required format. File uploads that do not include the necessary information will be considered incomplete and not eligible for funding under SCAAP. The SCAAP system will provide applicants with an opportunity to correct their files or add missing data prior to finalizing the application.

**Direct Data Entry:** The direct data entry function allows jurisdictions to manually enter inmate data directly into an on-line inmate data template, as opposed to creating a separate ASCII file. This approach may be best suited for jurisdictions with smaller facilities or small criminal alien populations.

Applicants must use only one method to submit inmate data. Prior to submission of the completed application, applicants may change this method. Applicants who change the method must

understand that any such change will overwrite all previous inmate record submissions.

### **Regional Jails and Special Districts**

Regional jails and regional correctional facility authorities or boards do not qualify as a "political sub-division" of a State for purposes of SCAAP and therefore are not eligible to directly apply for or directly receive SCAAP funds. Each unit of government that houses inmates at a regional facility is eligible to apply for SCAAP funds independently, based on its own costs of housing any qualifying, undocumented aliens in the regional facility.

Regional facilities may not submit SCAAP applications on behalf of individual jurisdictions, nor should a regional facility submit one application for all member jurisdictions, using one jurisdiction's name as the recipient. BJA will verify the authenticity of applications submitted by jurisdictions associated with regional facilities. Any information or instructions received by a jurisdiction or regional facility that is contrary to the above information should be verified by contacting the SCAAP program office in BJA.

### **Multi-Jurisdictional Issues**

Undocumented criminal aliens housed in the applicant's facility exclusively on behalf of a neighboring jurisdiction must be excluded from the application, regardless of whether the applicant jurisdiction receives reimbursement for associated costs. These inmates should be accounted for and reported by the sending jurisdiction.

Inmates ready for release once qualifying charges or convictions are concluded that are temporarily held in the applicant facility on the basis of outstanding warrants or detainers from other jurisdictions, including federal law enforcement agencies, may be counted. The applicant jurisdiction may claim the full time the inmate was in custody, including any period of time pending pickup by outside authorities.

Federal inmates or detainees covered by cost reimbursement or per diem agreements with Immigration and Naturalization Service, U.S. Marshals Service, or other federal law enforcement agencies are not eligible.

Juveniles who are adjudicated delinquent, regardless of the charges or length of custody, are not eligible for inclusion with the inmate records. Only those juvenile offenders who are convicted as an adult and who meet the qualifying SCAAP criteria may be included in the inmate records.

### **Incarceration Began Prior to FY 2002 Reporting Period**

If a qualified inmate was taken into custody prior to July 1, 2001, jurisdictions may use the actual date taken into custody or July 1, 2001 as the "Date Incarcerated." However, only those qualifying consecutive days on or after July 1, 2001 are actually counted in the total inmate days calculation.

If an inmate was released after June 30, 2002, use June 30, 2002 as the "Date Released." Uploaded inmate records with release dates after June 30, 2002 will be rejected. Eligible inmates incarcerated more than once during the reporting period may be included by creating a separate and distinct inmate record for each qualifying period of incarceration.

### **Alternatives To Traditional Incarceration**

Inmates who serve their incarceration incrementally, such as through weekend incarcerations that enable them to maintain employment, as not eligible. Periods of incarceration must occur consecutively, over the course of four or more days, rather than cumulatively, over the course of several weekends. Inmates sentenced to non-incarceration alternatives (e.g. home detention, house arrest, day reporting, supervised release, etc.) are also not eligible for SCAAP funds. Inmates and detainees must be confined overnight in state or local jails or correctional facilities.

### **Parole Violators**

Inmates on parole from qualifying convictions that are subsequently returned to the custody of a state or local correctional facility are SCAAP eligible, regardless of the reasons for the parole revocation.

### **Eligible Applicants**

States and local units of general government who have authority over correctional facilities that incarcerate or detain undocumented criminal aliens for a minimum of four consecutive days are eligible to apply for SCAAP funds. States and local units of general government include the 50 state governments, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and the more than 3,000 counties and cities with correctional facilities. Jurisdictions applying for SCAAP funds must provide all required information on undocumented criminal alien inmates for the prescribed reporting period, the total reporting period salary information for their full-and part-time permanent and contracted correctional officers, and total facility population data.

### **Authorized Officials**

Legislation authorizing the program requires that SCAAP payments go directly to eligible States and localities. Therefore, the Bureau of Justice Assistance will only interact with jurisdiction employees, and these employees should be listed as either the Authorized Representative or Alternate Contact in the GMS User Profile. The Chief Executive Officer (CEO) of eligible jurisdictions may apply directly or delegate authority to another jurisdiction official. The CEO is generally considered the highest ranking elected or appointed official of a unit of government.

The following are examples of typical CEO designations: State Governor; City Mayor or City Manager; Chairperson of the Town Council or Town Manager; President of the County Commissioners or County Administrator; Parish Sheriff in Louisiana; and County Judge in Texas.

### **Correctional Officer Definition**

Jurisdiction may include employees, officers, and contractual staff whose primary responsibility is the care, custody, or supervision of persons detained (pre-trial detention) and incarcerated (convicted and sentenced inmates). This includes all levels of correctional officers, deputy sheriffs (for local jails), correctional/jail supervisors, shift commanders, chiefs of security, assistant wardens, and wardens. Transportation officers and correctional officers or deputy sheriffs involved in the care and custody of inmates and detainees involved in judicial proceedings are also eligible.

Employees, officers, and contractual staff whose primary responsibility is providing non-custody services to the facility or its inmate population are not eligible for inclusion in the SCAAP salary calculation. This includes office and secretarial support, administrative, housekeeping, maintenance, food, health, education, vocation, counseling, and medical staff.

Staff who may function independently or outside the correctional facility, including parole and probation agents, hearing officers, court commissioners, judicial, prosecutorial, and public defenders, warrant and apprehension units, and others, are similarly not eligible for inclusion in the SCAAP salary calculation.

### **Correctional Officer Salary Calculation**

Salary information provided on the SCAAP application MAY NOT include benefits or overtime costs, except where overtime costs are a fixed expense included in a negotiated salary package or as part of a broader contractual agreement. Correctional officer salary costs may include premium pay for specialized service (e.g. bilingual officers), shift differential pay, and fixed pay increases for time-in-service.

### **Technical System Requirements**

Internet access is required to participate in this program. Generally, Netscape Communicator 4.7 or Internet Explorer 5.5 are considered the earliest versions of the respective Internet browsers for successful SCAAP application system access. Contact your agency network administrator to determine if an internal firewall or agency Internet security system is preventing direct access to the application system, or contact the GMS Help Desk for information regarding correct port settings. If you are a prior SCAAP user, your browser bookmark may not work properly and your attempt to access the SCAAP application site may generate a message advising that the "Page cannot be displayed." It is suggested that you delete the bookmark and manually type the URL into the browser address line.

### **Internet User Accounts**

The OJP Grant Management System (GMS) user accounts for SCAAP must be established by government officials from the applying jurisdictions; non-government officials may not establish user accounts on behalf of applying jurisdictions. When establishing a user account, Sheriffs or Chiefs of Police are not considered CEOs, but may serve as the contact person establishing the SCAAP user accounts on behalf of the CEO. All applications must be filed in the name of the

state or unit of general government and must include the jurisdiction's CEO name, official title, and reliable electronic mail (e-mail) address. Applications should not list the submitting agency as the jurisdiction (e.g., County Sheriff's Department, Department of Corrections, etc.)

### **Establishing a User Account/Begin an Application**

The URL for the SCAAP-GMS log-in page is <https://grants.ojp.usdoj.gov>. The log-in to the GMS system automatically defaults to the GMS Home "Status" page. Click on the "Funding Opportunities" button along the left side of the screen. At the next page, in the Program Office bar, highlight Bureau of Justice Assistance (BJA), then click "Search." The screen will display all open BJA funding solicitations. Look for "State Criminal Alien Assistance Program" and click on "Apply online," in the column labeled "Action." This will take you to the SCAAP application pages for FY 2003.

For new applicants who have never participated in SCAAP, you may begin an application while BJA is reviewing your user account. Once the user account approval is received by the jurisdiction, the application may be submitted

### **FY 2003 Application Data Review**

INS has the sole responsibility for verifying alien inmate data to determine which inmates qualify for inclusion in the formula and payment process. Inmate data must be in the specified format in order for INS to conduct this verification. The SCAAP web site and the SCAAP Internet application system include information about the required data format for both upload and direct entry files.

### **Application Re-submission (optional)**

BJA may return a submitted application with incomplete or inaccurate data to the applicant for corrections. If BJA exercises this option, it will notify both the CEO and program contact, via the e-mail address of record, that their application needs to be corrected and resubmitted. Corrections must be made and the application resubmitted to BJA no later than the date provided by BJA. Failure to resubmit the application by that date may result in its disapproval.

### **FY 2003 Payment Formula**

The FY 2003 SCAAP payments will be determined through a two-step process: First, a combination of eligible inmate data, correctional officer salary costs, and facility data will be used to determine the total salary costs expended by each jurisdiction for the maintaining of illegal criminal aliens during the specified reporting period; these values are then collectively compared to the annual appropriation, to develop a percentage factor that is then uniformly applied to all jurisdictions. During FY 2002, this factor was .82.

Example of a Jurisdiction's Payment Calculation from FY 2002 Program:

Total Salary Costs: \$4,407,099.00  
Total All Inmate Days: 200,385  
Daily Cost Per Inmate (Total Salary/Total Inmate Days): \$21.9932

Daily Cost Per Inmate: \$21.9932  
Total Illegal Inmate Days (Per INS): 13,853  
Salary Costs for Illegal Inmate Days (Daily Cost x Illegal Days): \$304,671.80

Salary Costs for Illegal Inmate Days ONLY: \$304,671.80  
**2002 SCAAP Payment Ratio (varies each year): 0.82**  
SCAAP Payment Amount: \$249,831.00

This initial calculation process occurs only one time, using all of the data provided by each participating jurisdiction. If a jurisdiction submits changes to BJA after the initial payment is made, the system-wide factor (e.g. .82) remains unchanged and any required future adjustment to a payment amount utilizes the original factor.

Often times, there is a wide variance between the total amount of salary costs reported by the jurisdiction and the final payment amount. The adjustment is usually due to the INS vetting process that determines some or many of the inmates submitted are ineligible for consideration or a portion of the submitted date is invalid because it was not provided in the required format.

### **Processing Your SCAAP Payment**

Once the FY 2003 SCAAP application period has closed and all data has been reviewed by INS, payments will be calculated and subject to release. Currently, payments are planned for late July or early August 2003. Payments will be made electronically to the bank account of record, as established and verified through the on-line registration process. Applicants will receive e-mail notification that payments are ready for on-line acceptance. Formal acceptance of the payment via GMS is necessary for the electronic transfer of funds into the applicant's bank account of record.

### **Use of Outside Consultants**

An applicant may utilize whatever assistance it deems appropriate to gather, compile, or format needed information for the completion of the SCAAP on-line application; however, it may not delegate to private, non-public entities the responsibility for establishing user accounts or completing the on-line application. By entering into the SCAAP certifications, the applicant is committing the potential use of general revenues to reimburse the Federal government for any overpayment. Accordingly, the user authorized to submit an application must be empowered to commit the general revenue funds of a State or political subdivision of a State. This ability to commit tax dollars is inherently governmental and cannot be delegated outside the government. Any applying jurisdiction violating these requirements may be subject to formal action by DOJ, including nullification of any related reimbursement and eligibility for future SCAAP applications.

### **Sources for Further Information**

**For GMS/Technical Phone Support (toll free)**

Technical support is available, Monday through Friday, from 7:00am to 9:00pm Eastern Time, via the GMS HelpDesk at 1-888-549-9901 - Option 3.

**For Email Inquiries**

Program and Policy Issues: [SCAAP@ojp.usdoj.gov](mailto:SCAAP@ojp.usdoj.gov)

GMS/Technical Issues: [GMSHelp@ojp.usdoj.gov](mailto:GMSHelp@ojp.usdoj.gov)

**For Written Inquiries via U.S. Mail**

Payments and Benefits Division

Attn: SCAAP Program Manager

Bureau of Justice Assistance

810 7th Street N.W.

Washington, D.C. 20531

**For Internet-Based Information**

Access <http://www.ojp.usdoj.gov/BJA/grant/scaap.html>

**For BJA and OJP Grant Information**

Contact the U.S. Department of Justice Response Center at 1-800-421-6770 or 202-307-1480, Monday through Friday, 9 a.m. to 5 p.m. eastern time; or access <http://www.ojp.usdoj.gov/>